

CITY OF LEXINGTON, NC

ORDINANCE NO. 16-20

**AN ORDINANCE TO AMEND THE CITY OF LEXINGTON'S
CODE OF ORDINANCES TO ESTABLISH
UPTOWN ZONING DISTRICT COMMERCIAL PROPERTY STANDARDS CODE
RELATING TO THE REPAIR, CLOSING AND/OR DEMOLITION OF
NON-RESIDENTIAL BUILDINGS OR STRUCTURES
WITHIN THE UPTOWN ZONING DISTRICT**

WHEREAS, North Carolina General Statute 160A-439 authorizes municipal governing boards to adopt and enforce ordinances relating to nonresidential buildings or structures that fail to meet standards of maintenance, sanitation, and/or safety that are dangerous and injurious to public safety, health, and welfare; and

WHEREAS, North Carolina General Statute 160A-175 authorizes municipal governing boards to adopt and enforce ordinances relating to nonresidential buildings or structures that fail to meet standards of maintenance that are detrimental to the public safety, health, welfare and to the dignity of the City; and

WHEREAS, the Lexington City Council seeks to create a favorable impression of Lexington as a community that takes pride in its appearance and heritage and to develop standards for the repair, maintenance, and removal of non-residential buildings; and

WHEREAS, the Lexington City Council seeks to establish minimum standards relating to the repair, closing and/or demolition of all existing and future buildings and structures in use for and/or intended for use for non-residential purposes within the Uptown Zoning District as now or hereafter established by the City of Lexington Zoning Map; and

WHEREAS, at its regular meeting on November 9, 2015, the Lexington City Council called for a public hearing to be held on November 23, 2015, at 7:00 p.m. at the Vernon G. Price, Jr. City Council Chambers, located at City Hall, 28 West Center Street, Lexington, NC, in order to receive citizen input relative to this matter; and

WHEREAS, notice of said public hearing was published as required; and

WHEREAS, on November 23, 2015, immediately following the close of the public hearing, upon a motion by Councilmember Callicutt, and seconded by Councilmember Alley, a vote was as follows:

Councilmembers Alley, Bunce, Callicutt, Lanier, Myers, Phillips and Shepherd voted "Yes;" and

No Councilmembers voted "No;"

NOW, THEREFORE, BE IT ORDAINED, that the Lexington City Council by vote did ordain that the City of Lexington's Code of Ordinances be amended to establish new regulations as follows:

Chapter 10, PROPERTY STANDARDS; Article I., Buildings; Division 6

UPTOWN ZONING DISTRICT COMMERCIAL PROPERTY STANDARDS CODE

Sec. 10-81. Finding.

The City of Lexington (hereinafter City) of North Carolina (hereinafter NC) hereby finds that there exists certain conditions within the Uptown Zoning District (hereinafter District) that are detrimental, injurious, or especially dangerous, to the health, safety, or welfare of citizens and to the peace and dignity of the City. And furthermore, finds that it is especially necessary to protect against said conditions within the District because it is a highly-populated walkable area with structures in closer proximity than within most other districts, and therefore there exists a higher risk of human injury and property damage and negative impacts are suffered by many.

Sec. 10-82. Purpose and Authority.

The intent of this Division is to establish minimum standards of maintenance, sanitation, and safety for all non-residential buildings and structures within the District, in order to address conditions that are or may be detrimental, injurious, or especially dangerous to public health, safety, and welfare. The provisions of this Division shall apply to all existing and future buildings and structures in use for and/or intended for use for non-residential purposes.

Authority is granted by the State to enact this Ordinance pursuant to North Carolina General Statutes (hereinafter G.S.) 160A-175, *Enforcement of Ordinances*, in order to prevent and correct conditions within the District which are detrimental to the health, safety, or welfare of citizens, and to the peace and dignity of the City; and G.S. 160A-439, *Ordinance Authorized as to Repair, Closing, and Demolition of Nonresidential Buildings or Structures, Order of Public Officer*, in order to prevent and correct conditions within the District which are injurious or dangerous to the health, safety, or welfare of citizens; and the peace and dignity of the City; and pursuant G.S. 160A-426, *Unsafe Buildings Condemned in Localities*, prevent and correct conditions within the Uptown which are unsafe and especially dangerous to life because of liability to fire or because of bad conditions of walls, bad condition of windows and doors, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress or other causes.

Sec. 10-83. Scope and Jurisdiction.

The provisions of this Division shall apply to all existing commercial buildings, non-residential structures, parking areas, and environs, and to all commercial buildings, non-residential structures, structures, and environs hereafter constructed, within the District as now or hereafter established by the City Zoning Map. The interior of dwelling units as part of commercial multifamily buildings or mixed-use buildings will be regulated by the Minimum Housing Code of the City's Code of Ordinances. All commons areas and exteriors of said dwelling units shall be regulated herein.

Sec. 10-84. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Division:

Abandoned Structure: Any structure, whether designed and intended for residential, commercial, or industrial, or other uses, which is vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the Director of Business and Community Development to be detrimental to the health, safety, and welfare of the public; or is considered dangerous or injurious to the public health, safety, welfare of the public and public necessity exists for the repair, closing or demolition; or which the City Council finds to be a health or safety hazard.

Appurtenances: Something subordinate to another structure, building, or property; adjunct; accessory. A term for what belongs to and goes with something else, with the appurtenance being less significant than what it belongs to. For example, a backyard is an appurtenance of the house that it belongs with.

Building: Any structure enclosed and isolated by exterior walls, and accessory elements thereto, and including tents, trailers, freestanding signs, and similar structures whether stationary or movable. The terms “building” and “structure” shall be interchangeable for the purpose of this ordinance and unless otherwise specified may generally refer to appurtenances and environs on the same property.

Commercial: Any structure as defined as ‘commercial’ by the North Carolina (hereinafter NC) Building Code, as amended, regardless of the use. Some commercial buildings contain residential uses, such as multifamily buildings and mixed-use buildings, but the building itself is regulated as a commercial building by the NC Building Code.

City: The City of Lexington, NC, or any official or agent thereof.

City Official: Any public official representing the City including but not limited to the City Manager, Assistant City Manager, Director of Business and Community Development, Fire Marshal, Building Inspector, Police Chief, Fire Chief and Mayor.

Code: The most recent version, as amended, of the following NC State Codes adopted by the NC Building Code Council. Collectively referred to as ‘Code,’ or individually as follows: Building Code, Electrical Code, Plumbing Code, Mechanical Code, Fire Prevention Code, Existing Buildings Code, Rehabilitation Code and Residential Code.

Days: Consecutive calendar days.

Director of Business and Community Development: The City of Lexington Director of Business and Community Development, including his or her agents, or City of Lexington Building Inspector.

Dwelling Unit: See residential.

Environs: The surrounding area or space and any objects located therein or thereon located on the same parcel or adjoining parcel under common ownership.

Evidence of Vacancy: Any aesthetic condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, extensively chipped or peeling exterior paint, exterior walls in poor condition, porches and steps in poor condition, roof in poor condition, broken windows and other signs of general disrepair, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds, or shutters, the absence of furnishings or personal items consistent with commercial habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

Fully Compliant / Full Compliance: If any part of the stated standard is not complied with by a particular building and environs, then that building and environs has failed to fully comply with the enumerated standard.

Garbage: The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Non-residential Building/Structure: Any building classified as commercial by the NC Building Code, as amended, regardless of the use of the building.

Non-residential Property: Any real property used or intended to be used or that is an appurtenance for a non-residential building or structure.

Occupant: Any person having actual possession of a building, structure or environs whether or not lawfully obtained.

Occupied: Any structure in current use for any purpose relative to commercial, industrial or residential use, including storage.

Owner: The holder of the title in fee simple and every mortgagee of record of a property. Any person, partnership, association, corporation or fiduciary having a legal or equitable title or any interest in any real property. No trustee in any Deed of Trust shall be considered an owner.

Owner of Record: The person or entity listed on the Davidson County Tax Department as the owner.

Parties in interest: All individuals, associations, and/or corporations who have interests of record in a nonresidential building or structure and any who are in possession of such building or structure.

Premises: A lot, parcel, or tract of land, including the buildings and structures thereon, under control by the same owner or operator, devoted to or zoned for non-residential use.

Property: The entire real property, or any portion thereof, including buildings, structures, appurtenances, environs in which the subject building, structure, appurtenance or condition of any environ is located, including but not limited to any and all parking areas, land and other structures on the same parcel or adjacent parcels under common ownership. For the purpose of this ordinance, the term property may refer either collectively or individually to components of the collective term.

Residential: Dwelling units within multifamily buildings such as apartments or mixed-use buildings. A building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment houses, and apartment hotels.

Rubbish: Combustible and non-combustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

Structure: Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to: principal and accessory buildings, manufactured homes or offices, trailer units, signs, poles, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers and cables, above and below ground storage tanks or other manmade facilities or infrastructures, etc., including any associated appurtenances.

Supplied: Paid for, furnished or provided by, or under the control of, the owner or occupant.

Unoccupied: Any building or structure which is vacant, without occupants, empty, or not operating under a Certificate of Occupancy.

Utilities: Water, sewer, electricity, natural gas, and propane gas services.

Vacant: A property that has not been legally occupied for thirty days. Legally occupied for non-residential uses means operating under a Certificate of Occupancy issued by the City. Legally occupied for residential uses means living within a residential unit approved by the City for human habitation. In general, occupancy by the owner or any business or individual whose presence therein is with the consent of the owner.

Vacant industrial warehouse: Any building or structure that was previously used for the storage of goods or equipment in connection with manufacturing processes that has not been used for that purpose for at least one year and that has not been converted to another use.

Vacant manufacturing facility: Any building or structure that was previously used for the lawful production or manufacturing of goods that has not been used for that purpose for at least one year and that has not been converted to another use.

Sec. 10-85. Appointment of Public Officer; Power and Duties.

The Director of Business and Community Development (hereinafter referred to as Director), is

hereby appointed as the public officer, pursuant to G.S. 160A-439(a), to administer and enforce this Division. The Director and his/her agents, including but not limited to all building inspectors with the City, shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Division, including, without limiting the generality of the foregoing, in addition to others hereby granted, the following powers:

1. *Investigations.* To investigate the condition of non-residential and/or commercial buildings and structures in the District in order to determine which are unsafe, substandard, or fail to fully comply with the standards of this Division, being guided in such examination of buildings by the requirements pursuant to G.S. 160A-439(b), G.S. 160A-175, standards contained herein, and by the NC Building Code.
2. *Periodic Inspections.* The Director and/or his/her agents shall make periodic inspections for unsafe, unsanitary, or otherwise hazardous or unlawful conditions of structures and environs within the District. In addition, he/she shall make inspections when he/she has reason to believe that such conditions may exist in a particular structure. In exercising this power, the Director and/or agents shall have a right to enter on any premises within the District at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials.
3. *Oaths, witnesses, etc.* To administer oaths and affirmations and to examine witnesses and receive evidence.
4. *Right of entry.* To enter upon and within property, buildings, structures and premises for the purpose of making examinations and investigations, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.
5. *Warrants, Citations, etc.* To swear criminal warrants, issue civil citations and to take such other actions as may be necessary to carry out the enforcement procedures of this Division.
6. *Delegation of functions, etc.* To delegate any of his/her functions and powers under this Division to such building inspectors, officers, and agents as he/she may designate.

Sec. 10-86. Good Repair Standards - Exterior of All Nonresidential Buildings.

All buildings and structures, together with appurtenances and environs, both occupied and unoccupied, shall be maintained in good repair, structurally sound, and sanitary, so as not to be detrimental to the public health, safety, or welfare and to the dignity of the City and shall comply with the following standards:

1. *Evidence of Vacancy.*
 - a) The exteriors of building(s)/structure(s) on the property shall be painted and maintained in a way that does not exhibit any evidence of vacancy.
 - b) The yard(s) of the Property shall be maintained in a way that does not exhibit Evidence of Vacancy.
 - c) The deck(s) and porch(s) located on the property shall be maintained in a way that does not exhibit evidence of vacancy.
 - d) The window(s) and door(s) of building(s)/structure(s) of the property shall be intact and operable and shall be maintained in a way that does not exhibit evidence of vacancy.
 - e) Instances of visible rotting of building(s)/structure(s) located on the property or portion thereof shall be corrected in order to eliminate evidence of vacancy, with the exterior painted and kept in good aesthetic condition.
 - f) The property shall be maintained so as to exhibit no evidence of vacancy.

- g) The storefronts and facades of buildings shall be maintained in a way that does not exhibit evidence of vacancy.
 - h) The interiors, when visible to passersby through storefront windows, shall be maintained in a way that does not exhibit evidence of vacancy.
2. *Protective Treatment.* All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, shall be maintained in good condition. Masonry shall be repointed as necessary to prevent bricks or members from falling or coming out. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering, cladding, or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building or structure envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
 3. *Premises Identification.* All dwellings, dwelling units and all primary commercial and industrial buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. Dwelling units within a multifamily building may have the primary building number located on the exterior and individual unit numbers applied to the door of the unit inside the building. Otherwise, numbers shall not be applied directly to a door or other movable object. If a structure is situated in a manner that obstructs the visibility of its assigned number, an approved alternate means of displaying the number must be provided. Address numbers shall be Arabic numerals or alphabet letters. The numbers used shall not be less than six (6) inches in height with a minimum one-half ($\frac{1}{2}$) inch stroke width and be made of durable and visible material which contrasts with the background material it is placed on.
 4. *Structural members.* All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.
 5. *Foundation walls.* All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
 6. *Exterior walls.* All exterior walls shall be free from holes, breaks and loose or rotting materials and maintained weatherproof and properly surface coated where required to prevent deterioration.
 7. *Roofs and drainage.* The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof shall not contain more than two (2) roof coverings. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.
 8. *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
 9. *Stairways, decks, porches, and balconies.* Every exterior stairway, deck, porch and balcony, including all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

10. *Chimneys, flues, vents.* There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling or in such condition or location as to constitute a fire hazard. All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment and shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.
11. *Handrails and guards.* All exterior porches, landings, balconies, stairs and fire escapes, and the like, shall be provided with banisters, railings or guards which are properly designed, firmly fastened, capable of supporting normally imposed loads and maintained in good condition to minimize the hazard of falling and the same shall be kept structurally sound, in good repair and free of defects.
12. *Window, skylight, and doors.* Every window, skylight, door and frames thereof, shall be in sound condition, good repair and weather tight. There shall be no cracks, holes or open spaces around window and door frames. All glazing materials shall be maintained free from cracks and holes. Windows and doors shall be maintained free from broken or missing glass. Broken or missing glass may not be replaced with material other than glass. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware. Voids within exterior walls which were created for the purpose of, or once contained a window or door, shall not remain without a window or door. Exterior windows, exterior spaces missing or partially missing windows, exterior doors and exterior spaces missing or partially missing doors in buildings, whether vacant or occupied, shall not be covered with masonry, boards, plywood, siding, sheetrock, brick, masonry, wood, fabric, plastic, tarp, metal or other similar material and shall be filled with a window or door. Glazing shall not be painted in opaque paint except for signage meeting the requirements of the zoning ordinance. Windows within the same building shall match in terms of material and general design.
13. *Doors.* All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units shall tightly secure the door.
14. *Basements.* All crawlspace doors, basement doors and hatchways shall be maintained to prevent the entrance of vermin, rain and surface drainage water.
15. *Guards for basement windows.* Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of vermin.
16. *Egress.* Every building shall be provided with adequate means of egress as required by the State Building Code. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Code.
17. *Building security.* The property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walkthrough, sliding, and garage), gates, pet doors and any other such opening of such size that it may allow a child to access the interior of the property or structure(s). Broken windows shall be replaced and/or re-glazed; windows shall not be boarded up. Doors, windows or hatchways for buildings shall be provided with devices designed to provide security for the occupants and property within. Basement hatchways that provide access to buildings shall be equipped with devices that secure the unit from unauthorized entry.

18. *Loose Materials.* The building and environs surfaces shall be kept clear of: cracked or broken glass; loose shingles; loose wood; crumbling stone or brick; loose, broken, tattered or torn plastic; or other dangerous objects or similar hazardous conditions.
19. *Exterior Surface Maintenance.* Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration.
20. *Rubbish.* Buildings and environs shall be kept clear of accumulations of garbage, trash, or rubbish which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.
21. *Overhanging and Protruding Objects.* The building and environs shall be kept free of loose and insufficiently anchored overhanging objects which constitute a danger of falling on persons or property. The building and environs shall be kept free of objects and elements protruding from building walls, roof and environs which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets and similar objects.
22. *Holes and Breaks in Walking Surfaces.* The environs shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other such dangerous impediments on and around walks, driveways, parking lots and other areas which are accessible to and generally used by persons on the premises.
23. *Drainage.* All yards and environs shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
24. *Gutters and Downspouts.* Gutters and downspouts shall be replaced or repaired as necessary and shall be appropriately located so as not to cause a hazard to pedestrian, vehicular traffic or property.
25. *Accessory Structures and Appurtenances.* Attached and unattached accessory structures and appurtenances shall not cause a nuisance or safety hazard.
26. *Signs.* Advertising sign structures, attached or freestanding, awnings, marquees and their supporting members and other similar attachments and structures shall not cause a nuisance or safety hazard.

Sec. 10-87. Fit for Occupancy Standards for Non-Residential Buildings

In addition to the Good Repair Standards contained within Section 10-86, all State Codes and the following Occupancy Standards shall be met in order for any commercial building or structure, together with its appurtenances and environs, to be considered safe and fit for occupancy.

Failure to meet any of the following standards prior to occupancy may result in denial of a Certificate of Occupancy and/or denial of release for utility connection. (2012 NC Administrative Code and Policies - Sections 204.8.4.1 and 204.9, and G.S. 160A-423)

Failure to meet any of the following standards while a building is occupied, whether or not it is under a valid Certificate of Occupancy, shall be declared dangerous and shall result in enforcement procedures outlined in Section 10-91. (G.S. 160A-439)

1. *General.* The building or structure, together with its appurtenances, environs, equipment, and systems, shall be maintained in good repair and be structurally sound.
2. *Residential Units within Commercial Buildings.* Every dwelling unit shall comply with the Residential Code and Minimum Housing Code.

3. *Structural members.* All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads. Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean or buckle and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit vermin. Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
4. *Interior surfaces.* All interior surfaces, including windows and doors, shall be maintained in clean, sanitary and sound condition. All surfaces shall be kept in good repair. Interior walls, ceilings and floors shall be finished of suitable material which will, by use of reasonable household methods, promote sanitation and cleanliness. Peeling, chipping, flaking or abraded paint shall be repaired, removed and covered. Floor coverings to include carpeted areas shall be clean, maintained and free of defects. Cracked and loose plaster, decayed wood and other defective surface conditions shall be corrected.
5. *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
6. *Floors and Walking Surfaces.* Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair. Interior steps, railings, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
7. *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
8. *Interior doors.* Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.
9. *Cornices.* All cornices shall be made structurally sound. Rotten or weakened portions shall be removed and/or replaced. All exposed wood shall be treated or painted.
10. *Equipment and Systems.* Every supplied facility, piece of equipment or utility which is required under this Division or the Building Code for the occupancy of use shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
11. *Plumbing.* All plumbing fixtures and pipes shall meet Code and shall be properly installed and maintained in a state of good repair, safe, and in good working order.
 - a. Each occupied space shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.
 - b. Each occupied space shall contain not less than a toilet and sink with an adequate supply of both cold water and hot water.
 - c. Every non-residential space shall comply with the Code.
 - d. Each occupied space shall contain an operable hot water heater. Water heating facilities shall be properly installed, maintained, and capable of providing an adequate amount of water to be drawn at every required sink or plumbing fixture at a temperature of not less than 110 degrees Fahrenheit. An approved combination temperature and pressure-release valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.
 - e. All plumbing fixtures shall meet the standards of the Code and shall be maintained in

- a state of good repair and in good working order.
- f. All required plumbing fixtures shall be accessible to the occupants. All water closets shall be located in a room or rooms affording privacy to the user.
12. *Electrical.* All electrical fixtures, receptacles, equipment, and wiring shall meet Code and shall be properly installed and maintained in a state of good repair, safe, and in good working order.
- a. Every dwelling unit shall comply with the Residential Code and Minimum Housing Code. Every non-residential space shall comply with the Code.
- b. Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- c. General electrical system shall meet the standards set forth in the Code.
13. *Mechanical equipment.* All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances, and water heating appliances shall meet Code and shall be properly installed and maintained in a state of good repair, safe working condition, and shall be capable of performing the intended function.
- a. All smoke detectors and carbon monoxide detectors shall be installed, at a minimum, to meet Code.
- b. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent with exception of fuel-burning equipment and appliances which are labeled for unvented operation.
- c. All safety controls for fuel-burning equipment shall be maintained in effective operation.
- d. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.
14. *Utilities required.* Each occupied space within a commercial building shall have and maintain a water utility service or an adequate and functioning well. Each occupied space within a commercial building shall have and maintain an electric utility service. No commercial space may remain occupied without water and electrical service.
15. *Egress.* Adequate facilities for egress in case of fire or panic shall be provided and shall remain clear for such purposes.
16. *Flammables.* Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the State Fire Prevention Code.

Sec. 10-88. Summary of Enforcement Relative to Status of Building and Type of Standard

Enforcement Procedures Vary with Violation Type. One property may have a variety of violations that must be enforced by different means in accordance with NC General Statutes, depending on the scenario and the severity of the violation. Applicable types of enforcement procedures will be applied simultaneous or individually as needed or required for compliance. In general, the following categories will assist in determining the process to be used:

- a. **ALL BUILDINGS, VACANT OR OCCUPIED IN VIOLATION OF GOOD REPAIR STANDARDS**
All buildings, structures, appurtenances, and properties are required to meet the Good Repair

Standards contained within Section 10-86. Enforcement procedures for violations may begin with the informal process contained in Section 10-89, and may include procedures outlined in Section 10-90 as needed.

b. **BUILDINGS BEING PREPARED FOR OCCUPANCY**

The building is being repaired to meet the Good Repair Standards (Section 10-86) and the Occupancy Standards (Section 10-87) in order to become occupied. Passed inspection is required prior to being issued a Certificate of Occupancy and being approved for utility service. The inspector will work with the owner to ensure compliance and may use procedures in Section 10-90 for Good Repair Standards and may withhold a Certificate of Occupancy or deny utility connection until the building meets the Occupancy Standards.

c. **OCCUPIED BUILDINGS IN VIOLATION OF OCCUPANCY STANDARDS**

If the building is already occupied, but potentially injurious conditions are discovered due to a violation of the Occupancy Standards, enforcement procedures contained within Section 10-91 will apply and the informal process contained within this section may be used simultaneously.

d. **ANY UNSAFE BUILDING OR STRUCTURE, VACANT OR OCCUPIED**

The City must utilize enforcement procedures outline in G.S. 160-426 for unsafe buildings that pose a threat to life.

Sec. 10-89. Inspection Results, List of Defects to be Repaired, Correction

a. **INTENT**

The intent of this Section is to allow the Director and owner to attempt reaching compliance in the most efficient manner possible before or simultaneous to initiating the formal procedures outlined in G.S. 160A-175 (good repair), 160A-439 (dangerous or injurious), or G.S. 160A-426 through 160A-432 (unsafe). It is in the best interest of the City, the owner and the general public to utilize the process herein first or simultaneous, in order to effectuate repairs in a timelier manner and to create a less cumbersome process for the owner.

b. **FAILED INSPECTION AND LIST OF DEFECTS**

In any case where the official determines that a property, building, structure, appurtenance or environs fails to fully comply with one or more of the above enumerated standards or any requirement of the Code, he/she shall notify the owner in writing a Notice of Failed Inspection, which shall include a list of defects to be repaired.

c. **TIME FOR REPAIRS**

The owner shall be given a reasonable time period to make necessary repairs and call for a re-inspection of the property. Dangerous conditions will be required to be remedied immediately. Most non-dangerous defects must be remedied within thirty (30) days. More extensive projects, such as installation of windows, may be given up to one hundred eighty (180) days for completion. No owner shall be given more than 180 days from the initial Notice of Failed Inspection to repair/remedy a violation cited under this Section. Extension beyond six (6) months from the original date of the initial Notice of Violation requires approval by the Board of Adjustment.

d. REMEDY

The owner or occupant shall remedy the defects within the prescribed time frame. Failure to make necessary repairs or correct violations within the prescribed time frame may result in loss of the Certificate of Occupancy, removal of utilities, abatement by the City (the City may repair and bill the owner) or other necessary steps.

e. FAILURE TO REMEDY

Failure to remedy the defects within the prescribed time frame shall constitute a violation of this Division and procedures under Section 10-90, 10-91 or 10-92 shall ensue, as applicable.

f. OPTION OR REQUIREMENT TO BEGIN OTHER PROCEDURES

Optional for Good Repair Standards. At any time during the process, regardless of whether or not time frames have expired, if the Director determines that it is unlikely that defects or violations of the Good Repair Standards contained within Section 10-86 will be corrected as a result of this process, he/she may exercise at his/her discretion, the option to utilize any or all procedures outlines in Section 10-90. (G.S. 160A-175)

Required for Dangerous, Injurious, or Unsafe Conditions. At any time during the process, regardless of whether or not time frames have expired, if the Director determines that there exist any dangerous, injurious or unsafe conditions, he/she shall immediately begin following procedures outlined in Sections 10-91 or 10-92 and said procedures may run simultaneous to procedures outlined herein. (G.S. 160A-439 or G.S. 160A-426-432)

Sec. 10-90. Fails to meet Good Repair Standards contained within Section 10-86

(Not Declared Unsafe, Dangerous or Injurious, but Not in Compliance with All Standards.) (G.S. 160A-175.)

After following procedures outlined in Section 10-89, the owner has failed to remedy any defects relative to the Good Repair Standards contained within Section 10-86 or at any time during the process and at the discretion of the Director if he/she has reason to believe that procedures outlined in Section 10-89 may not effectuate compliance within the prescribed timeframe, this ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

a. VIOLATIONS DECLARED MISDEMEANOR

Violation of this ordinance is a misdemeanor or infraction as provided by G.S. 14-4. The maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is the maximum allowed by G.S. 14-4.

b. CONTINUING VIOLATION

Each day's continuing violation shall be a separate and distinct offense.

c. PENALTIES

The City may impose fines and penalties for violation of this ordinance, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

d. INJUNCTION AND ORDER OF ABATEMENT

The City may apply for, and the court may enter into, an order of abatement and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of this ordinance occurs, the City may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance.

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he/she may be cited for contempt and the City may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

e. CIVIL PENALTIES

In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to GS 160A-175, the regulations and standards in this ordinance may be enforced through the issuance of civil penalties to the owner by the Director as outlined in the City of Lexington Code of Ordinances, Chapter 1 General Provisions, Section 1-12, General Penalty; Continuing Violations. Civil Penalties shall be recovered by the City in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

f. STOP WORK ORDER ISSUANCE AND REVOCATION OF PERMITS

Whenever a building, structure or appurtenance is being constructed, demolished, renovated, altered or repaired in substantial violation of any applicable provision of this ordinance, the Director may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order will be in writing, directed to the person doing the work, and will state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to resume work lawfully. The Director may revoke any permit (i.e. Zoning, Building, Certificate of Occupancy, etc.) by written notification to the permit holder when violations of this ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing

the permit, when work is being or has been done in substantial departure from the approved application or plan, when there has been a failure to comply with the requirements of this ordinance or when a permit has been mistakenly issued in violation of this ordinance.

g. **EQUITABLE REMEDY**

The City may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the City for equitable relief that there is an adequate remedy at law.

h. **CRIMINAL**

Any person, firm, or corporation convicted of violating the provisions of this ordinance will, upon conviction, be guilty of a Class 3 misdemeanor and shall be fined an amount not to exceed five hundred dollars (\$500). Each day of violation will be considered a separate offense, provided that the violation is not corrected within thirty (30) days after notice of violation is given.

Sec. 10-91. Occupied Buildings in Violation of Occupancy Standards, which are Declared Dangerous or Injurious, but not Unsafe (G.S. 160A-439).

a. **COMPLAINT AND HEARING.**

If the preliminary investigation discloses evidence of a violation of the minimum standards contained herein which cause the property to be dangerous or injurious to the public health, safety, or welfare of the public or because the owner has failed to immediately remedy defects cited under Section 10-89, the Director shall issue and cause to be served upon the owner of and parties in interest in the property a complaint. The complaint will state the charges (violations) and contain a notice that a hearing will be held before the Director at a place within the City scheduled not less than ten (10) nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts of law or equity shall not be controlling in hearings before the Director.

b. **ORDER.**

After notice and hearing, if the Director determines that the nonresidential building or structure has not been properly maintained so that the health, safety or welfare of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established herein, the Director shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein. However, the following limitations shall apply to an order:

1. **Limitations on Orders.**

- a. An order may require the owner to repair, alter or improve the nonresidential building, structure, appurtenance and/or environs in order to bring it into

compliance with the minimum standards established herein or to vacate and close the nonresidential building or structure for any use. If the violations are exterior in nature and the building is already vacant, the order shall be to bring the property into compliance with the minimum standards established herein.

- b. An order may require the owner to remove or demolish the nonresidential building, structure, appurtenance, or conditions if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places or located within a locally designated historic district or within a historic district listed in the National Register of Historic Places and the governing body determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing body. Regardless of whether or not a building or structure is ordered to be vacated and closed, exterior violations such as missing or broken windows and doors, shall be ordered to be repaired in accordance with the minimum standards established herein, unless the building or structure has been ordered to be removed or demolished.
 - c. An order may not require repairs, alterations or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.
- c. ACTION BY GOVERNING BODY UPON FAILURE TO COMPLY WITH ORDER.
- 1. If the owner fails to comply with an order to repair, alter or improve, or to vacate and close the nonresidential building or structure, the Lexington City Council may adopt an ordinance ordering the Director to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Director found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Director may cause the building or structure to be repaired, altered or improved and/or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: *"This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful."* Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

2. If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the Lexington City Council may adopt an ordinance ordering the Director to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Director found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established herein. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Director may cause the building or structure to be removed or demolished.

d. ACTION BY CITY COUNCIL UPON ABANDONMENT OF INTENT TO REPAIR.

If City Council has adopted an ordinance or the Director has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing body may make findings that the owner has abandoned the intent and purpose to repair, alter or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the City Council may, after the expiration of the two (2) year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

1. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within ninety (90) days; or
2. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within ninety (90) days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing body may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

e. SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by a public officer pursuant to an ordinance adopted under this

section shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

f. LIENS.

1. The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
2. Because all property under the authority of this ordinance is located in an incorporated city, the amount of said costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
3. If the nonresidential building or structure is removed or demolished by the Director, he/she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the City Council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

g. EJECTMENT.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Director may file a civil action in the name of the city to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be

served as provided in G.S. 42-29. The summons shall be returned according to its tenor and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing body pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding, that the governing body has ordered the public officer to proceed to exercise his duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

h. **CIVIL PENALTY.**

The City may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the City for the enforcement of any ordinances adopted pursuant to this section.

Sec. 10-92. Unsafe Buildings.

Every building which shall appear to the Director to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress or other causes, shall be held to be unsafe, and the City shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building. The City shall follow procedures in G.S. 160A-426 through 160A-432 for all buildings declared unsafe.

Sec. 10-93. Appeal; Remedies; Finality of Order if Not Appealed.

- a. Appeals from any court order shall be made directly to the court issuing the order.
- b. Appeals from any order, decision, or determination by a building inspector pertaining to State Codes shall be taken to the Commissioner of Insurance or his/her designee or other official specified in G.S. 143-139 and by filing a written notice with him/her and with the inspection department within a period of ten (10) days after the order, decision or determination. Further appeals may be taken to the State Building Code Council. Said appeal process should be reserved for appealing whether or not a specific condition meets State Code as generally required within the Standards and shall not be used to appeal whether or not the condition does or does not meet any specific Standards that do not directly reference the State Code.
- c. Any owner who has received an order, decision or determination by the Director may appeal to the City Board of Adjustment (hereinafter Board) as follows: (In the absence

of an appeal, the order of the Director shall be final. The Board shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order. (G.S. 160A-446)

1. An appeal from any decision or order of the Director may be taken by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the Director shall be taken within 10 days from the rendering of the decision or service of the order by filing with the Director and with the Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Director shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Director refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Director requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Director certifies to the Board, after the notice of appeal is filed with him/her, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his/her requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except by a restraining order,, which may be granted for due cause shown upon not less than one (1) day's written notice to the Director, by the Board, or by a court of record upon petition made pursuant to subsection (4) of this section.
2. The Board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Director, but the concurring vote of fourth-fifths (4/5) of the members of the Board shall be necessary to reverse or modify any decision or order of the Director. The Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
3. Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the Board, but not otherwise.
4. Any person aggrieved by an order issued by the Director or a decision rendered by the Board may petition the superior court for an injunction restraining the Director from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Director pending a final disposition of the cause. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. In accordance with G.S. 160A-446(f), hearings shall be had by the court on a petition within twenty (20) days and shall be given preference over other matters on the court's calendar. The

court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

Sec. 10-94. Alternative Remedies.

Nothing in this Division, nor any of its provisions, shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Division shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in Section 1-12 of the Code of Ordinances of the City of Lexington and G.S. 14-4.

Sec. 10-95. Conflict with Other Provisions.

In the event any provision, standard or requirement of this Division is found to be in conflict with any provision of any other ordinance or code of the City, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the public health and safety shall prevail. The NC Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this Division.

Sec. 10-96. Violations declared Unlawful.

In addition to the conditions, acts or failures to act that constitute violations specified in this Division above, it shall be unlawful for the owner of any building to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Director duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any building, with respect to which an order has been issued pursuant to Sections 10-89, 10-90, 10-91, 10-92, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

Sec. 10-97. Validity.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 10-98.-10-100. Reserved.

All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

This Ordinance shall become effective July 1, 2016.

First reading this the 9th day of November, 2015; and second reading and adoption this the 23rd day of November, 2015, by the City Council of the City of Lexington, NC.



Samuel Clark

Samuel Clark, Mayor

ATTEST:

Rebekah C. Gainey

Rebekah C. Gainey, CMC, Deputy City Clerk